

Remarks:

Reconsideration and allowance are respectfully requested. Claims 1-20 are pending in the application and claims 1-18 are rejected. Claims 1-18 have been amended. Claims 19 and 20 have been added. No new matter has been added.

Drawings:

The Examiner states that “[t]he drawings are objected to because Figure 9 as drawn does not correspond to the other drawings.” A corrected drawing sheet labeled “REPLACEMENT SHEET” in compliance with 37 C.F.R. §1.121(d) is being submitted herewith.

The Examiner further states that “[t]he drawings are objected to under 37 C.F.R. §1.83(a) [which states in part that] the drawings must show every feature of the invention specified in the claims.” Applicant has amended claims 2 and 3 accordingly.

Claim Rejections – 35 U.S.C. §112:

Claims 1-18 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 1-4, 8, 9 and 13 according to the Examiners comments and withdrawal of the rejection is therefore respectfully requested.

Claim Rejections – 35 U.S.C. §102:

Claims 1, 2, 5-14 and 18 are rejected under 35 U.S.C. §102(b) as being anticipated by Shimoda et al. (US 4,934,751).

The Examiner states that “Shimoda discloses the claimed invention including B-pillar 5, transverse reinforcement 16, 18, sill 1, and plate like member 13, 14.” Applicant respectfully disagrees. The claimed invention is not anticipated.

For a rejection grounded in anticipation under §102 to be proper, every element and limitation recited in the rejected claim(s) must be found in the cited 102 reference. *See* MPEP § 2131. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Id.*, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). *See also, In re*

Paulsen, 30 F.3d 1475 (Fed. Cir. 1994). The MPEP restricts the prior art that may be cited by an Examiner in making a §102(b) rejection to those where the “identical invention [is] shown in as complete detail as is contained in the ... [rejected] claim.” *Id.*, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

Shimoda does not disclose “a plate-like impact element (22), arranged in a direction longitudinal to the vehicle and substantially upright, the plate-like impact element (22) having an inside (29) that is connected to a side outer end (28) of the transverse reinforcement (16)”, as required by the claimed invention. Instead, Shimoda discloses “[a] reinforcing beam or a first reinforcing member 13 [that] is disposed in a lower portion of a space defined between the outer and inner panels 11, 12 [of a side wall structure of an automotive body] in the vicinity of the outer panel 11. The reinforcing beam 13 is of a closed hollow configuration comprising two corrugated plates 14, 15 that are coupled to one another. As illustrated in Fig.2. The reinforcing beam 13 extends in the longitudinal direction of the automobile and has front and rear ends fixed respectively to the central pillar 5 and the rear wheel house 6 by welding, and a lower end coupled to a side sill 1 (FIGS. 2 and 3).” *See Col. 2, Lines 3-13*. As such, the first reinforcing member 13 is not a “plate-like impact element having an inside that is connected to a side outer end of the transverse reinforcement,” as required by the claimed invention.

Further, Shimoda discloses “[a] panel spacer or second reinforcing member 16 in the form of a hollow box having one open end [that] is disposed between the inner panel 12 and the reinforcing beam 13. The open end of the panel spacer 16 is welded to a lower portion of the surface of the reinforcing beam 13 which faces the passenger compartment of the automobile. The end of the panel spacer 16 which is opposite to the open end is held against and attached to the inner panel 12.” *See Col. 2, Lines 14-22*. As such, the second reinforcing member 16 is also not a “plate-like impact element having an inside that is connected to a side outer end of the transverse reinforcement,” as required by the claimed invention.

Accordingly, for at least these reasons, the claimed invention is allowable over Shimoda and withdrawal of the rejection is therefore respectfully requested.

Claims 1-13 and 18 are rejected under 35 U.S.C. §102(b) as being anticipated by Heinz et al. (US 6,168,228).

The Examiner states that “Heinz et al. discloses the claimed invention including sill 10, B-pillar 9b, transverse reinforcement 17 and plate element 20.” Applicant respectfully disagrees. The claimed invention is not anticipated.

As discussed above, for a rejection grounded in anticipation under §102 to be proper, every element and limitation recited in the rejected claim(s) must be found in the cited 102 reference. *See* MPEP § 2131. Heinz et al. does not disclose “a plate-like element (22) arranged in a direction *longitudinal* to the vehicle and substantially upright,” as required by the claimed invention. Instead, Heinz et al. discloses “a transversely stiffening tube construction 17 ... which is composed of two laterally exterior upright reinforcing tubes 18 and a tube-shaped stiffening element 19 which extends over the vehicle body width ... each upright reinforcing tube 18 is linked to an adjoining, relatively large-surface area connection plate 20.” *See Col. 3, Lines 16-23*. As illustrated in Figure 2, the connection plate 20 disclosed by Heinz et al. is arranged vertically within the B-column 9 of the passenger car 1 and not “arranged in a direction *longitudinal* to the vehicle,” as required by the claimed invention.

Furthermore, Heinz et al. does not disclose “the plate-like element (22) having an inside (29) that is connected to a *side outer end* (28) of the transverse reinforcement (16),” as required by the claimed invention. Instead, Heinz et al. discloses a “a reinforcing tube [that] is formed by a hollow rectangular tube which is welded in sections to the connection plate 20. ... In the connection area of the transversely extending supporting tube 22, the connection plate 20 [having] local cutouts. The *exterior end* of the supporting tube 22 is welded to the reinforcing tube 18.” *See Col. 3, Lines 43-51*. As such, the connection plate disclosed by Heinz et al. is connected at an exterior end of the transversely extending supporting tube 22 and not “connected to a side outer end of the transverse reinforcement,” as required by the claimed invention.

Accordingly, for at least these reasons, the claimed invention is not anticipated by Heinz et al. and withdrawal of the rejection is therefore respectfully requested.

Claim Rejections – 35 U.S.C. §103:

Claims 15-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shimoda et al. in view of Inami et al. (US 4,090,734).

The Examiner states that “Shimoda et al. discloses the claimed invention including a plate like reinforcement member along the side of the vehicle body within the outer shell for

reinforcing the vehicle body during side impacts [and that] [t]he member has two solid undulating plates that are interconnected.” The Examiner further states that “Inami et al. discloses a reinforcement member positioned within an outer shell of the vehicle side for lateral impact reinforcement. The member includes an inner shell 20, an outer shell 22, and a zigzag reinforcing structure 14 therebetween [and that] [i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the plate element of Shimoda to comprise an inner shell, an outer shell and a zigzag reinforcing structure therebetween as taught by Inami et al. for enhanced lateral impact protection.” Applicant respectfully disagrees. The claimed invention is not obvious.

A proper rejection under 35 USC §103(a) requires that the Examiner establish *prima facie* obviousness. As recited in the MPEP, “[t]he Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” MPEP §2142.

The key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. §103 should be made explicit. The Federal Circuit has stated that “rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). MPEP §2142.

For a rejection under 35 U.S.C. § 103(a) to be proper, the Examiner must establish an “apparent reason” to modify the reference or to combine reference teachings. *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1395-97 (2007). The Examiner has failed to show where the prior art provides an “apparent reason” to modify the reference or combine the teachings.

As discussed above, Shimoda simply does not disclose, teach or suggest a vehicle that includes “a plate-like impact element (22), arranged in a direction longitudinal to the vehicle and substantially upright, the plate-like impact element (22) having an inside (29) that is connected to

a side outer end (28) of the transverse reinforcement (16)", as required by the claimed invention. Furthermore, Inami et al. also does not disclose, teach or suggest a vehicle that includes a plate-like impact element (22), arranged in a direction longitudinal to the vehicle and substantially upright, the plate-like impact element (22) having an inside (29) that is connected to a side outer end (28) of the transverse reinforcement (16)", as required by the claimed invention. Instead, Inami et al. teaches "[a] reinforcement member for an automobile door [wherein] the reinforcement is secured to the door inner panel." *See Abstract*. As the reinforcement member taught by Inami et al. cannot be connected to a transverse reinforcement because the reinforcement member of Inami et al. is installed within a vehicle door, modification of Shimoda in view of Inami et al. would still not serve to remedy the initial deficiency of Shimoda. As such, there would be no "apparent reason" to modify Shimoda in view of Inami et al.

Accordingly, the claimed invention is allowable over Shimoda in view Inami et al. and withdrawal of the rejection is therefore respectfully requested.

New Claims:

New claims 19 and 20 have been added. Support for these claims can be found in at least claim 3 and claim 8 of the application as filed.

Respectfully submitted,

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